

Message Text

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ACTION IO-14

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DHA-02 ACDA-07 CIAE-00 DODE-00 PM-05 H-01 INR-07
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C O N F I D E N T I A L USUN 2614

E.O. 11652: GDS

TAGS: PFOR, UN, GW

SUBJECT: AD HOC COMMITTEE ON THE TAKING OF HOSTAGES

REF: (A) USUN 2602; (B) USUN 2585

SUMMARY: COMMITTEE CONTINUED SUBSTANTIVE DEBATE AT AM AND PM MEETINGS AUGUST 15. WEO MEMBERS, JAPAN, PHILIPPINES, IRAN, CHILE AND MEXICO CONTINUED TO STRUCTURE DEBATE AROUND FRG DRAFT AND CONCENTRATED ON ARTICLES 2-4. USSR, POLAND, TANZANIA, LIBYA, NIGERIA, EGYPT, BYELORUSSIA, AND ALGERIA CONTINUE TO EMPHASIZE NEED FOR AGREEMENT ON ISSUE OF NATIONAL LIBERATION MOVEMENTS. WEO GROUP MET BETWEEN AM AND PM MEETINGS TO DISCUSS MEXICAN PROPOSAL (REFTEL A) AND TACTICS. END SUMMARY.

1. WEO MEMBERS AND SEVERAL OTHER STATES HAVE CONTINUED TO STRUCTURE THEIR COMMENTS AROUND THE FRG DRAFT. COMMENTS WERE MADE ON THE LANGUAGE AND IMPACT OF ARTICLES 2,3 AND 4 OF THE DRAFT. IN SEVERAL CASES, SUGGESTIONS WERE MADE TO CLARIFY THE ARTICLE OR TO INTRODUCE A TECHNICAL CHANGE.

2. MORE INTERESTING OF SUGGESTED TECHNICAL CHANGES ARE AS FOLLOWS: (A) IRAN AND CANADA SUGGESTED THAT OBLIGATION IN CONFIDENTIAL

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ARTICLE 4 TO IMPOSE "SERIOUS" PENALTIES FOR TAKING OF HOSTAGES BE CHANGED TO OBLIGATION TO IMPOSE "APPROPRIATE" OBLIGATIONS. (B) FRANCE SUGGESTED ADDITION OF PARAGRAPH TO ARTICLE 4 TO THE EFFECT THAT CONTRACTING STATES WOULD PROVIDE FOR THE EASING OF PENALTIES WHERE THE CRIMINAL RELEASED THE HOSTAGES VOLUNTARILY. US AND NETHERLANDS QUESTIONED ADVISABILITY OF INTERNATIONAL COMMUNITY INJECTING ITSELF

INTO ONLY ONE ISSUE IN NECESSARILY SENSITIVE AND DISCRETIONARY PROBLEM OF SENTENCING. (C) MEXICO SUGGESTED THAT THE CONVENTION BE EXPANDED TO INCLUDE THREATS OF TAKING OF HOSTAGES. NICARAGUA AND ITALY SAID THEY THOUGHT THE EXISTENCE OF A THREAT WAS TOO SUBJECTIVE TO BE SUBJECT OF INTERNATIONAL CRIMINAL LAW. (D) SEVERAL STATES HAVE RAISED QUESTIONS CONCERNING DRAFTING OF THE REQUIREMENT IN ARTICLE 3 THAT A CONTRACTING STATE RETURN PROPERTY TO THE RIGHTFUL OWNER. BECAUSE OF DIFFICULTY OF DETERMINING RIGHTFUL OWNER, PHILIPPINES SUGGESTED THAT THE PROPERTY BE RETURNED TO THE AUTHORITIES OF THE STATE FROM WHICH IT WAS TAKEN AND CANADA SUGGESTED THAT THE PROPERTY BE RETURNED TO THE PERSON FROM WHOM IT WAS TAKEN.

3. ARABS, EE'S AND AFRICANS WHO SPEAK CONTINUE TO EMPHASIZE THE RIGHTS OF NATIONAL LIBERATION MOVEMENTS TO STRUGGLE FOR SELF-DETERMINATION, DESPITE ANOTHER LENGTHY INTERVENTION BY MEXICO THAT THE MATTER HAS BEEN COVERED IN THE PROTOCOLS TO THE GENEVA CONVENTIONS. POLAND, USSR, EGYPT AND ALGERIA QUESTIONED THE WAY SOME MEMBERS OF THE COMMITTEE WERE PROCEEDING. SAID IT WAS UNWISE TO PROCEED WITH CONSIDERATION OF OTHER ITEMS WHILE THERE WAS DISAGREEMENT AS TO THE BASIC SCOPE OF THE CONVENTION AND EVEN THE DEFINITION OF THE OFFENSE THAT WOULD BE COVERED. US AND UK SAID WE SHOULD NOT LET DISAGREEMENT OVER ONE ISSUE PREVENT ANY PRODUCTIVE WORK AND SAID FRG DRAFT ONLY PROPOSAL WHICH PROVIDES CONFIDENTIAL

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STRUCTURE FOR DEBATE.

4. LIBYA MADE PROPOSAL CONCERNING THE DEFINITION OF TAKING OF HOSTAGES. PROPOSAL WOULD INCLUDE THE DENIAL OF THE FUNDAMENTAL FREEDOMS OF MASSES OF PEOPLE BY A COLONIAL, RACIST OR OCCUPYING POWER. THIS IS FIRST SPECIFIC PROPOSAL CONCERNING ISSUE OF STATE CONDUCT. ALTHOUGH IT WAS SUPPORTED IN PASSING BY USSR AND EGYPT, IT HAS NOT BEEN SUBJECT OF ANY REAL DISCUSSION.

5. AT AM MEETING SECRETARIAT DISTRIBUTED ANALYTICAL PAPER WHICH HAD BEEN REQUESTED BY ARABS AND OTHERS (REFTEL B). PAPER, WHICH WAS SUPPOSED TO HAVE CONSISTED OF PROPOSALS MADE BY STATES DURING GENERAL DISCUSSION, IS INSTEAD A SUMMARY OF GENERAL DEBATE SINCE IN FACT NO PROPOSALS WERE MADE DURING GENERAL DISCUSSION OTHER THAN THOSE FORMALLY SUBMITTED. USSR, ALGERIA AND BYELORUSSIA, UNHAPPY WITH WAY WEO'S AND CERTAIN OTHER STATES ARE PROCEEDING WITH DISCUSSION OF VARIOUS ARTICLES OF FRG DRAFT, HAVE SUGGESTED THAT COMMITTEE USE THE SECRETARIAT PAPER TO STRUCTURE THE DEBATE SINCE THERE IS NOT EVEN AGREEMENT WITH RESPECT TO THE PROPER SCOPE OF THE FRG DRAFT.

6. WEO'S MET BEFORE PM MEETING ARE REQUEST OF NETHERLANDS TO DISCUSS MEXICAN PROPOSAL CONCERNING NATIONAL LIBERATION MOVEMENTS. GENERAL CONSENSUS WAS THAT POLITICALLY PROPOSAL WAS NOT MUCH BETTER THAN TANZANIA PROPOSAL. GROUP DECIDED THAT SINCE THERE WAS LITTLE LIKELIHOOD OF AGREEMENT ON A CONVENTION AT THIS SESSION OF COMMITTEE, WEO'S SHOULD NOT MAKE ANY CONCESSIONS OF SUBSTANCE BUT INSTEAD TRY TO BUILD A RECORD OF DISCUSSION OF FRG DRAFT BY GOING THROUGH IT ARTICLE BY ARTICLE IN ORDER TO GET A REPORT FROM THE COMMITTEE WHICH WOULD BE CONDUCIVE TO THE SIXTH COMMITTEE RECONVENING THE COMMITTEE WITH EXISTING MANDATE. HOWEVER, GROUP DECIDED TO ONLY DISCUSS ARTICLES 1 - 9 THIS SESSION SINCE ARTICLE 10 RESURRECTS SCOPE PROBLEM.
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WEO'S DECIDED IT WAS IMPORTANT THAT SPEAKERS BE PREPARED TO ADDRESS ARTICLES 2 - 8 DURING NEXT TWO DAYS SO THAT DURING LAG IN DEBATE OTHERS DO NOT TURN TO THE SECRETARIAT PAPER.
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